

**ZONING BOARD OF APPEALS
MINUTES OF MEETING
JANUARY 31, 2013**

Town of Bedford
Bedford Town Hall
Lower Level Conference Room

PRESENT: Angelo Colasante, Chair; Kenneth Gordon, Vice Chair; Brian Gildea, Clerk; Jeffrey Dearing; Carol Amick; Todd Crowley

ABSENT: Jeffrey Cohen; Stephen Henning

Mr. Colasante introduced himself and read the emergency evacuation notice. The Zoning Board of Appeals (ZBA) members and ZBA assistant introduced themselves.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #021-13 – Pamela Brown, Esq., for b.good, 152 Great Road, seeks a Special Use Permit per Section 4.5.7 and per Table I: Use Regulations of the Zoning By-Law to operate a restaurant with indoor and outdoor seating, and a Special Sign Permit per Article 40.4 Section 3 of the Sign By-Law to divide wall sign into two or more signs, and per Article 40.5 Section 2 to illuminate signs.

Ms. Brown greeted the Board and introduced Anthony Ackil, one of the co-owners of the b.good franchise. Ms. Brown explained that the application before the Board was a Special Permit for restaurant use and signage.

Mr. Colasante said that he would like to get the sign portion of the application out of the way first; he asked whether any of the other Board members had a problem with starting with the signage. The other members agreed that they had no problems with that.

Ms. Brown walked the Board members through the application packet and pointed out that the specifications of the sign were included inside. She said that the sign request included splitting the wall sign into two signs, each in the shape of the b.good “bean” logo, and then to illuminate the signs.

Ms. Brown stated that the roof façade was run down and old, so Mr. Ackil proposed to install a wood-colored laminate going around the entire section of the building in which the restaurant stands. Ms. Amick stated that she felt that, since the wood laminate was only proposed on one section of the roof façade and not the entirety of it, it became a part of the sign because it identified this one particular business. There was discussion about how the wood laminate would look and whether it became part of the sign. Mr. Dearing said that the wood background did not incorporate any of b.good’s corporate colors, so he didn’t consider it part of the sign. Mr. Dearing said that, if the Board did approve the

wood laminate, he would include a condition stating that it will be all one neutral color and not have the striped look shown on the application rendering.

There was more discussion about the dimensions and aesthetics of the sign.

Mr. Gildea said that the Board usually received some kind of catalogue cut sheet for the sign illumination fixtures. Ms. Brown stated that the details of the halo illumination were located on the page containing the dimensional graphic of the sign. Mr. Dearing stated that, in the past, the Board has not required a traditional cut sheet for halo illumination, so he felt that the information provided was sufficient. The other Board members agreed.

Mr. Colasante opened the meeting to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing regarding the sign portion of the application. Ms. Amick said she didn't feel comfortable making a motion to approve a sign for a business whose use has not been approved. Mr. Colasante said he asked the Board at the beginning of the hearing whether they were open to discussing the sign first. Ms. Amick said she misunderstood his question at the outset and thought he had only meant to have the discussion on the sign. She said she thought that voting on the sign first set a bad precedent. Mr. Colasante said her concern was noted but he would like the Board to deliberate on the sign.

DELIBERATIONS ON SIGN:

Mr. Gildea noted that the Board must weigh the two requirements of a Special Permit, which are that the project was in keeping with the intent and purpose of the By-Law and was not injurious or detrimental to the neighborhood. Mr. Colasante said he felt the permit met those requirements.

MOTION:

Mr. Gildea moved to grant to Pamela Brown, Esq., for b.good, at 152 Great Road, a Special Sign Permit per Article 40.4 Section 3 of the Sign By-Law to divide wall sign into two or more signs, and per Article 40.5 Section 2 to illuminate signs, substantially as shown on Exhibits E, F, and G, and subject to the following conditions:

1. The lighting be on a timer, and be off during the hours of 11 PM and 6 AM; and
2. The roof façade as shown on Exhibit A be one color.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, and Dearing

Voting against: Amick

Abstained: None

The motion carried, 4-1-0.

Moving next to the special use permit, Mr. Colasante asked how large the restaurant space was. Ms. Brown replied that it was 3,092 square feet. She noted that the proposal was for 60 seats inside and some minimal seating outside that would be used seasonally. There was dialogue regarding the seasonal seating and whether the Board wanted to condition the Special Permit to allow seating during specific times of the year. It was decided that there would be no condition regarding the time of year that the seats could be used, but the Special Permit would limit the seating to no more than 12.

The ZBA members conversed with the applicants about parking and the number of parking spaces. Ms. Brown noted that parking was not an issue at this site and the lot had more than enough spaces to accommodate this restaurant.

Mr. Colasante asked whether the b.good restaurant had any wait staff. Mr. Ackil replied that it did not; customers ordered food at the counter and it was made in front of them, and they took it with them to a table or as takeout.

There was discussion about including an L-shaped railing around the section where the outside seating would be placed. Ms. Amick said she thought that was an excellent idea, and it made her feel more comfortable about the notion of outside seating. The other Board members agreed.

There was conversation about store deliveries and trash removal, and the Board members talked with the applicants about conditions on the Special Permit regarding these items.

Mr. Gildea asked what the hours of operation would be. Mr. Ackil replied that they would most likely be 10 AM to 10 PM.

There was extensive discussion about the protocol and legality of issuing a one-year temporary Special Permit. The Board talked about the wording of the one-year condition in the motion.

Mr. Colasante opened the hearing to the public. With no comments or questions from those in attendance, Mr. Colasante closed the public hearing.

DELIBERATIONS ON USE:

Mr. Colasante reiterated that the requirements of a Special Permit were that the application was in keeping with the intent and purpose of the By-Law and was not injurious or detrimental to the neighborhood. He said that, with the conditions the Board will place on this permit, he felt the Special Permit met those requirements.

MOTION:

Mr. Gildea moved to grant to Pamela Brown, Esq., for b.good, 152 Great Road, a Special Use Permit per Section 4.5.7 and per Table I: Use Regulations of the Zoning By-Law to

operate a restaurant with indoor and outdoor seating, substantially as shown on Exhibits A through D, and subject to the following conditions:

1. No deliveries to occur before 7 AM, and delivery doors and parking shown on Exhibit C;
2. Hours of operation be not before 7 AM or after 11 PM;
3. The Special Permit will run for a trial period of 1 year commencing on the date that an Occupancy Permit is issued, after which time the applicants will appear before the Zoning Board for consideration of making the Special Permit permanent;
4. There will be a 12 seat limit to outdoor seating, located per plan marked as Exhibit C; and
5. A railing will be installed to protect public from traffic, located as shown on Exhibit C.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Dearing, and Amick

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

PRESENTATION: Mr. Gildea read the notice of the hearing.

PETITION #020-13 – Talal Ali-Ahmad, for Najim LLC, at 143 Great Road, seeks a Variance from Section 4.5.16 (a) and (g) of the Zoning By-Law to allow residential unit on first floor.

Mr. Ali-Ahmad introduced himself and explained that he currently owned the building at 143 Great Road, which was on the corner of Great Road and Bacon Road. He said the first floor had been classified by the Town as a dual use, for residential and business, and it had had a residential unit in it for decades. He explained that last year he decided to make the entire first floor a residential unit, unaware of the section of the Zoning By-Law prohibiting residential units on the first floor of a building in a Business Zone. He said that the Town granted a Demolition Permit to gut the first floor, but when he applied for the Building Permit, the Building Inspector informed him of this By-Law and informed him that he wouldn't be able to proceed unless he had Zoning Board approval.

Mr. Colasante asked for confirmation that the first floor was now entirely gutted. Paul Sperling, of Sperling Thomas Architects, introduced himself as Mr. Ali-Ahmad's architect and stated that the first floor was indeed completely gutted; he showed photographs of the space as proof.

Mr. Colasante asked whether the applicant proposed any new changes to the building. Mr. Ali-Ahmad said he proposed no changes at all; he only wanted the first floor of the

structure to be allowed to be used as a residential dwelling, which is why he was before the Board for this Variance.

Mr. Colasante explained to Mr. Ali-Ahmad that his application was for a Variance, which the Board has very little leeway in granting. He noted that the previous application (from this evening) was for a Special Permit, for which the Board only has to acknowledge that two requirements are met, but a Variance has seven requirements, all of which must be demonstrated by the applicant.

Ms. Amick talked with the other Board members and the applicant about the history of the house, and explained that she recalled a dentist being located on the first floor many years ago; she added that she thought the dentist also lived on the first floor, although she couldn't remember for certain.

Mr. Gordon noted that Christopher Laskey, the Code Enforcement Director, had included with his synopsis a copy of a previous Special Permit issued by the Zoning Board in 2009 for 41-43 South Road. Mr. Gordon said that his reading of the Special Permit indicated that it was the same set of circumstances as this house, so he wondered whether the Board could grant a Special Permit for this application instead of a Variance. There was further discussion about whether a Special Permit could be granted.

Mr. Colasante said that if the Board made a motion for a Variance for this application, it would probably not pass, so he hoped that it was possible to grant a Special Permit instead. Mr. Gordon said that the previous Special Permit granted by the Zoning Board for South Road indicated to him that it was possible to grant a Special Permit if the applicant could prove that there was a single family dwelling on the first floor prior to the Zoning By-Law coming into effect. Mr. Colasante and the other Board members agreed that the applicant should find out whether he can apply for a Special Permit, and if so, re-file as such after finding proof that the first floor was a single family dwelling prior to 1945. Mr. Gildea suggested that the applicant continue this application in case Mr. Ali-Ahmad couldn't apply for a Special Permit, so that he would still have a way of returning before the Board without having to pay another fee.

MOTION:

Mr. Gildea moved to continue Talal Ali-Ahmad, for Najim LLC, at 143 Great Road, seeking a Variance from Section 4.5.16 (a) and (g) of the Zoning By-Law to allow residential unit on first floor to February 28, 2013 at 7:30 PM.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Dearing, and Amick

Voting against: None

Abstained: None

The motion carried unanimously, 5-0-0.

BUSINESS MEETING:

The Board members talked more about the wording, history and consequences of the one-year conditionality of Special Permits for restaurant use. Nothing was resolved.

MOTION:

Ms. Amick moved to adjourn the meeting.

Mr. Dearing seconded the motion.

Voting in favor: Colasante, Gordon, Gildea, Dearing, Amick, and Crowley

Voting against: None

Abstained: None

The motion carried unanimously, 6-0-0.

The meeting adjourned at 9:05 PM.

Angelo Colasante, Chair

Date

Respectfully Submitted,

Scott Gould
ZBA Assistant